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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,015	09/18/2003	Michael W. Vice	10030015	9129

7590 05/04/2005

AGILENT TECHNOLOGIES, INC.
Intellectual Property Administration
Legal Department, DL429
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EXAMINER

CHOE, HENRY

ART UNIT PAPER NUMBER

2817

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,015

Applicant(s)

VICE, MICHAEL W.

Examiner

Henry K. Choe

Art Unit

2817

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

Claims 1, 2, 5, 11, 12 and 15 are still rejected under 35 U.S.C. 102(b) as being anticipated by Forbes et al (Fig. 1A) (of record) for reasons of record.

Claims 1, 7, 9, 11, 17 and 19 are still rejected under 35 U.S.C. 102(b) as being anticipated by Jacobs (Fig. 1) (of record) for reasons of record.

Claim Rejections - 35 USC § 103

Claims 3, 4, 6, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forbes et al (Fig. 1A) (of record) for reasons of record.

Claims 8, 10, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs (Fig. 1) (of record) for reasons of record.

Response to Arguments

Applicant's arguments filed on 3/3/05 have been fully considered but they are not persuasive.


Applicant argues that the driver 110 and the receiver 120 of Forbes are not the first and second stages of an amplifier. Examiner totally disagrees with this statement. The Fig. 1A of Forbes et al clearly shows an inverting amplifier in the driver stage 110 and a transistor amplifier in the receiver stage 120. The first stage and second stage recited in the claims only represent the names. According to MPEP 2111, during patent examination, the pending claims must be given the broadest reasonable interpretation consistent with the specification. You read the claims in light of the specification. But you do not incorporate the limitations in the specification into the claims. We only give patentable weight to the limitations positively recited in the claims. We absolutely don't give patentable weight to the limitations recited in the specification but not positively recited in the claims. If applicant wants patentable weights given to the term such as "first stage" and "second stage", then such terms must be clearly defined in the claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry Choe whose telephone number is (571) 272-1760.



**HENRY CHOE
PRIMARY EXAMINER**